

UPPER CLARK FORK STEERING COMMITTEE

MINUTES – January 7, 1999

MEMBERS PRESENT:

Gerald Mueller
Gary Ingman
Steve Schombel
Jim Dinsmore
Holly Franz

Brent Mannix
Ole Ueland
Jules Waber
Jon Sesso

MEMBERS ABSENT:

Suzy Peraino
Jim Quigley
Audrey Aspholm
Mike Griffith
Don Peters
Michael Kennedy
Bob Benson

Doug Mood
Liz Smith
Kevin Feeback
John Vanisko
Robin Bullock
Marnie McClain
Eugene Manley

VISITORS PRESENT:

Mike McLane
Brett Van Voast
Libby Maclay
Dave Meyer
Susan Sakage
Dave Streuferd

DNRC - Helena
DNRC - Helena
Missoula C.D.
History Graduate Student
NRCS - Deer Lodge
Powell County Extension Agent

The Upper Clark Fork River Basin Steering Committee met Thursday, January 7, 1999 at the St. Mary's Center in Deer Lodge, MT.

WELCOME

Gerald Mueller welcomed Committee members and visitors and called the meeting to order. The agenda for this meeting will be as follows:

Avista Corp (WWP)
FERC Dam Re-licensing
Discussion of the Report to the Legislature
Update on Water Related Legislation

The minutes for the December, 8 meeting were discussed and approved as is.

Brief update on the town meeting in Drummond (Sewage Treatment Plant)

Gary Ingman discusses the planning of the infrastructure repair and upgrades for the sewage treatment plant in Drummond and the issues and options brought up at the town meeting. Issues centered around the amount of nutrients being returned to the stream and ways to mitigate. Options include Treatment, using wetlands, and using the wastewater for crops. Gary also discussed other funding options.

Gary Ingman said that it would be good to stay involved as needed, but there was no immediate need for water management planning for about the next 10 years.

Gerald Muller asked if Gary and Roxan would draft a letter to that effect for ?????

Avista Corp (WWP)

Gerald Muller informed the committee that there was no response to the letter the committee sent to the Governor expressing their concern about the lack of public input and potential repercussions. The decision is on the Governor's desk, and the Governor has promised to make a decision by noon today (No decision as of this time).

Ask Mike McLane about a brief rundown on the proposals

Jim Dinsmore informs the committee that WWP wants to bring the issue into the public forum but they feel that the problem is with DNRC.

Mike explains the DNRC position and involvement – Check the paragraphs from last meeting on the description of the various proposals.

More than water rights – water management? Point?

Mike McLane Trying not to make decision between water rights and making call – water management needed to avoid making call

Moratorium will make WWP happy (other)
Probably proposed to Leg to make that happen.

Gerald Muller asks if the committee should become part of the public process (testify before the Legislature etc.)

Jim Dinsmore says that the committee should probably change a few things in relation to this issue, but the committee should not get involved in other's business.

Jon Sesso says that it would be good to become a public forum where interested members of the public can come and discuss this issue, and we should make the offer to the Governor. What action he will take remains to be seen.

Gerald Muller asks if the committee should co-sponsor a meeting with the agencies as a forum to inform the public?

Jim Dinsmore says that it is the stance of WWP that this issue WILL become public, one

way or another.

Holly Franz thinks that if this decision does go public, this would be a good public forum. It is a decision that effects everyone.

Mike McLane believes the scope of WWP water rights affects people outside of what FERC defines as "project area."

Gerald Muller asks the committee about the content of the new letter

"If opportunity is provided, this steering committee will be willing to co-sponsor public interest meeting(s) to inform the basin about the issues and proposals to address ?????"

Holly Franz asks "Is term closure a big enough deal to effect us or bother people?"

Mike McLane says that the current proposals set aside the rights issue and takes two years to study it.

Gerald Muller WWP takes unique?

Jon Sesso points out that the Governor is not usually inclined to leave the public out of decisions of this nature.

Oly Ueland stresses flexibility because the length of the agreement will be over 30-50 years.

Gerald Muller asks Holly and Mike to keep track of the situation and other water bills that are introduced in the legislature.

Oly Ueland again stresses flexibility and that he has to report to ?????.

Report to the Legislature

Gerald Muller updates the committee on the change that have been made.

The changes that Steve asked for on the last bullet have been changed. Steve would also like the committee to stop using WWP and start using Avista Corp.

The last substantive changes deal with balancing rights while Steve says that it amounts to the Avista Corp's subordination of their water rights.

Mike McLane says that DNRC is trying to balance water rights; however, Avista Corp. says that it amounts to subordination. This is the sticking point in the current negotiations.

Jim Dinsmore asks if people wouldn't want WWP to enforce its water rights as it had in the past.

Holly Franz says that it depends on which side of the issue the an individual happens to be on. Most people don't know about the issue.

Jon Sesso proposes that words like subordinating and balancing should be taken out and it should read:

“. . . DNRC proposals regarding Avista Corp. water rights and those of the Clark Fork Basin water users junior to Avista”

Gerald Muller says that Avista also gave money to Northern Light and will be changed to reflect that in the report.

Holly Franz points out a few typos that need to be corrected.

Oly Ueland adds that old water rights could be put to new uses and would like to see the committee continue to facilitate this activity.

Holly Franz discusses Oly's flexibility issue and the committee agrees to add the following to the report as a new bullet item:

“Developing flexibility within the water rights closure to allow water development still protecting existing water rights and upstream flows”

Gary Ingman says that the second paragraph in the introduction should be changed to say that the situation in the basin is not the same. The slide has been stopped. Oly agrees.

Gerald Muller asks Gary to draft language to that affect.

Jim Dinsmore asks if anyone will actually read this report?

Gerald Muller says that this report will provide information for people testifying to the Legislature, Legislative staff, EQC. However, with the amount of work the Legislators have and the limitations of time, they will probably not read the document.

Jon Sesso points out that the committee had decided it should write a conclusion at the last meeting stating that the work of the committee is still ongoing. The wording was discussed at this point and the committee settled on the following conclusion:

“In general, the studies have been useful although no firm conclusions have been made about the relationship between surface and ground water.. The ground water studies are ongoing.”

Gerald Muller then discusses the recognition of the Flint Creek Citizens Advisory Committee in the report. The following wording was decided on by the committee:

“The Flint Creek Citizens Advisory Committee who provided assistance and information on where water return flows actually occur.”?????

Legislation

Holly Franz updates the committee on SB98 (In Stream Leasing) and HB205 ((unknown)

SB98 – In Stream Leasing – prepared by EQC

This bill is before the legislature because the FWP leasing bill terminates this year. There are a few differences between what FWP wants and what the bill actually does.

Differences between the FWP position and the EQC bill:

1. FWP – believes that instream leasing has been demonstrated to work and therefore should have no sunset provisions
EQC only extends the leasing period to 10 years.
2. FWP – believes that the lease should be for the life of the project that the lease was obtained for.
EQC – extended the time of the lease to 10 years – 20 years only if a water conservation project is included.
3. FWP – the original bill only allowed 20 designated stream reaches and wanted no maximum number included with this bill.
EQC – raised the maximum number of stream reaches to 40.

The new bill continues leasing, loosens up the restrictions and adds flexibility.

HB205 Sponsored by Bill Cash – Amends Subdivision water rights law
This bill came out of the Montana Water Rights Association.

Changes made to the existing law:

Sec. 9 Land being subdivided has water rights. Developer must make ditch easements unless the land parcel is less than 1 acre (must notify the purchaser). Or the land is first removed from the Irrigation District by legal means.

Sec. 10 This section addresses the issue of subdivision land that is adjacent to irrigated land (recognizing ditch easements).

The subdividers must supply this information to the planning board for decision.

Realtors have signed off on sec. 9, but are concerned with sec 10.

Mike McLane updates the committee on BILL# and

This bill deals mostly with grammatical cleanup of existing laws and beyond that, there are no major changes. Clarified sections include:

1. Clarification of the meaning of Federal Rights Holder.
2. 85 2302 -- Clarifying application changes completed.
Reviewing applications – Deadlines – essentially the same.
(Changes 3 months to 90 days)
3. Sec 6 – Clarifies what a complete and correct objection is – have information.
4. Page 9 – Deleted time limit for filing an extension.

Gerale Muller – There will be meeting to discuss Fred Bure Creed on January, 28th.

He also points out that the next step on Racetrack is to have the agencies develop proposals for water users to look at.

Gerald Muller discusses the reasons for having a next meeting. Now that the Report to the Legislature is complete, the only things that might require the committee to meet is More work on the Ground Water Study and the pending decision on the FERC re-licensing of Avista Corp.

The next meeting doesn't need to be held for about 60 days unless something breaks with regard to Avista.

The committee decides that the next meeting will be held on February 11th if nothing happens with Avista. If needed, an emergency meeting may be called with regard to Avista.

NEXT MEETING

The date for the next meeting:

1. Thursday, February 11, 1999
2. The meeting will be held in the DNRC Basement Conference room or at the Metcalf Building.